

Montana Water Court
PO Box 1389
Bozeman, MT 59771-1389
1-800-624-3270
(406) 586-4364
watercourt@mt.gov

FILED
02/22/2023
Sara Calkins
CLERK
Montana Water Court
STATE OF MONTANA
By: D'Ann CIGLER
43B-0708-R-2022
Brown, Stephen R
9.00

MONTANA WATER COURT, YELLOWSTONE DIVISION
YELLOWSTONE RIVER ABOVE AND INCLUDING BRIDGER CREEK BASIN
BASIN 43B
PRELIMINARY DECREE

CLAIMANTS: Wild Eagle Mountain Ranch LLC; State of Montana
Board of Land Commissioners

OBJECTORS: Montana State Board of Land Commissioners; Wild
Eagle Mountain Ranch LLC

CASE 43B-0708-R-2022

43B 41761-00

43B 41763-00

43B 41766-00

43B 30155792

43B 30155793

43B 30155794

ORDER AMENDING AND ADOPTING MASTER'S REPORT

The Master's Report was filed on February 1, 2023 based on the Stipulation filed by the parties on November 2, 2022. On February 10, 2023 Wild Eagle Mountain Ranch LLC filed an Objection To Master's Report stating that the parties neglected to include changes to the point of diversion legal descriptions for one of the claims. The Objection notes the agreement of the Montana State Board of Land Commissioners and includes a marked aerial photograph locating the points of diversion. The Objection To Master's Report is viewable in the Court's FullCourt Enterprise case management system. Upon review, it is

ORDERED that the first paragraph of Finding of Fact 3 is AMENDED to the following:

Claim 43B 41761-00 should be modified as follows: 1) the flow rate should be reduced from 2.50 CFS to 2.20 CFS, 2) the maximum acres should be reduced from 114.00 acres to 100.00 acres, 3) the 52.00 acre parcel in the W2 section 16, T1N, R12E, SWEET GRASS should be reduced to 38.00 acres in the W2W2 section 16, T1N, R12E, SWEET GRASS, 4) the legal description for point of diversion #1 should be changed from NWSWNE to NESWNE, and 5) the legal description for point of diversion #3 should be changed from SENWSW to SWNESE.

Pursuant to Rule 53(e), Montana Rules of Civil Procedure, the Court **ADOPTS** the Senior Water Master's Report and its Recommendations **AS AMENDED ABOVE** and **APPROVES** the changes to the centralized computer record system that are reflected on the abstracts for claims 43B 41763-00, 43B 41766-00, 43B 30155793, and 43B 30155794 attached to the Master's Report and reflected on the abstracts for claims 43B 41761-00 and 43B 30155792 attached to this Order.

ELECTRONICALLY SIGNED AND DATED BELOW.

Service Via Email:

Katelyn J. Hepburn
Nicholas J. Lofing
Garlington, Lohn & Robinson, PLLP
350 Ryman Street
PO Box 7909
Missoula, MT 59807-7909
(406) 523-2500 W
kjhepburn@garlington.com
llroberts@garlington.com
jlrobertson@garlington.com
njlofing@garlington.com
kavangilder@garlington.com
kjpetererson@garlington.com

Aislinn W. Brown
Caitlin Buzzas
MT Attorney General
1719 Ninth Ave
PO Box 201440
Helena, MT 59620-1440
406-444-5850 W
blcwatercourt@mt.gov
Aislinn.brown@mt.gov
caitlinbuzzas@mt.gov
rochell.standish@mt.gov

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 41761-00 STATEMENT OF CLAIM
Version: 3 -- POST DECREE
Status: ACTIVE

Owners: WILD EAGLE MOUNTAIN RANCH LLC
576B DUCK CREEK RD
SPRINGDALE, MT 59082

Priority Date: JUNE 10, 1894

Type of Historical Right: DECREED

Purpose (use): IRRIGATION
Irrigation Type: FLOOD

Flow Rate: 2.20 CFS

***Volume:** THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 100.00

Source Name: ALKALI CREEK
Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESWNE	8	1N	12E	SWEET GRASS
*Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	HEADGATE					
Ditch Name:	FETTER DITCH					
2		NESESE	8	1N	12E	SWEET GRASS
*Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	HEADGATE					
Ditch Name:	FETTER DITCH					
3		SWNESE	8	1N	12E	SWEET GRASS
*Period of Diversion:	MARCH 1 TO NOVEMBER 1					
Diversion Means:	HEADGATE					
Ditch Name:	FETTER DITCH					
*Period of Use:	MARCH 1 TO NOVEMBER 1					

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	35.00		SE	8	1N	12E	SWEET GRASS
2	27.00		SW	9	1N	12E	SWEET GRASS

3	38.00	W2W2	16	1N	12E	SWEET GRASS
Total:	100.00					

Remarks:

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE SUPPLEMENTAL WHICH MEANS THE RIGHTS HAVE OVERLAPPING PLACES OF USE. THE RIGHTS CAN BE COMBINED TO IRRIGATE ONLY OVERLAPPING PARCELS. EACH RIGHT IS LIMITED TO THE FLOW RATE AND PLACE OF USE OF THAT INDIVIDUAL RIGHT. THE SUM TOTAL VOLUME OF THESE WATER RIGHTS SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

41761-00 41763-00 41764-00 41766-00

THE WATER RIGHTS FOLLOWING THIS STATEMENT ARE ASSOCIATED WHICH MEANS THE RIGHTS SHARE THE SAME OTHER.

68-00 41761-00 41763-00 41764-00 41766-00

THE WATER RIGHTS LISTED FOLLOWING THIS STATEMENT ARE MULTIPLE USES OF THE SAME RIGHT. THE USE OF THIS RIGHT FOR SEVERAL PURPOSES DOES NOT INCREASE THE EXTENT OF THE WATER RIGHT. RATHER IT DECREES THE RIGHT TO ALTERNATE AND EXCHANGE THE USE (PURPOSE) OF THE WATER IN ACCORD WITH HISTORICAL PRACTICES.

41761-00 41788-00

POST DECREE
ABSTRACT OF WATER RIGHT CLAIM
YELLOWSTONE RIVER, ABOVE & INCLUDING BRIDGER CREEK
BASIN 43B

Water Right Number: 43B 30155792 STATEMENT OF CLAIM

Version: 1 -- ORIGINAL RIGHT

Status: ACTIVE

Owners: MONTANA STATE BOARD OF LAND COMMISSIONERS
TRUST LAND MANAGEMENT DIVISION
PO BOX 201601
HELENA, MT 59620 1601

Priority Date: JUNE 10, 1894

Type of Historical Right: DECREED

Purpose (use): IRRIGATION

Irrigation Type: FLOOD

Flow Rate: 137.00 GPM

Volume: THE TOTAL VOLUME OF THIS WATER RIGHT SHALL NOT EXCEED THE AMOUNT PUT TO HISTORICAL AND BENEFICIAL USE.

Climatic Area: 3 - MODERATE

Maximum Acres: 14.00

Source Name: ALKALI CREEK

Source Type: SURFACE WATER

Point of Diversion and Means of Diversion:

<u>ID</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1		NESWNE	8	1N	12E	SWEET GRASS

Period of Diversion: MARCH 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: FETTER DITCH

2		NESESE	8	1N	12E	SWEET GRASS
---	--	--------	---	----	-----	-------------

Period of Diversion: MARCH 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: FETTER DITCH

3		SWNESE	8	1N	12E	SWEET GRASS
---	--	--------	---	----	-----	-------------

Period of Diversion: MARCH 1 TO NOVEMBER 1

Diversion Means: HEADGATE

Ditch Name: FETTER DITCH

Period of Use: MARCH 1 TO NOVEMBER 1

Place of Use:

<u>ID</u>	<u>Acres</u>	<u>Govt Lot</u>	<u>Qtr Sec</u>	<u>Sec</u>	<u>Twp</u>	<u>Rge</u>	<u>County</u>
1	14.00		E2W2	16	1N	12E	SWEET GRASS

Total: 14.00